

Message Text

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ACTION EB-07

INFO OCT-01 EA-07 ISO-00 INT-05 COME-00 GSA-01 L-03

CIAE-00 INR-07 NSAE-00 DODE-00 TRSE-00 H-02 STR-04

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FM AMEMBASSY KUALA LUMPUR
TO SECSTATE WASHDC NIACT IMMEDIATE 4078

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E.O. 11652: N/A
TAGS: EMIN, MY
SUBJECT: GOM POSITION RE FIFTH TIN AGREEMENT RATIFICATION

1. MINISTRY OF PRIMARY INDUSTRIES SECRETARY GENERAL, TENGKU TAN SRI MOHAMED BIN TENKU SRI AKAR, CALLED IN EMBOFF ON JULY 24 TO PRESENT AIDE MEMOIRE ON SUBJECT OF U.S. RATIFICATION OF FIFTH TIN AGREEMENT (FTA). HE REQUESTED THAT THIS BE TRANSMITTED TO DEPTMENT IMMEDIATELY. GOM CONCERN OVER SPEED ARISES FROM FACT THAT SENATE HEARINGS ON FTA OPEN JULY 27 AND GOM WOULD APPRECIATE DEPARTMENT ASSISTANCE IN PROVIDING MALAYSIAN VIEWS ON CERTAIN ASPECTS OF THE AGREEMENT TO SENATE COMMITTEE BEFORE HEARINGS ACTUALLY COMMENCE. THIS IS DESIRED BECAUSE GOM HAS LEARNED THAT ANTI-AGREEMENT FORCES LIKELY TO ATTACK RATIFICATION BECAUSE OF DAMAGE THEY ALLEGE MIGHT CAUSE TO CONSUMERS.

2. TEXT OF AIDE MEMOIRE AS FOLLOWS:

"RATIFICATION OF THE FIFTH INTERNATIONAL
TIN AGREEMENT BY THE UNITED STATES

"A. AS THE UNITED STATES GOVERNMENT IS AWARE, THE
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POSITIVE STEPS TAKEN BY HER TO SIGN, AND SUBSEQUENTLY,

TO DEPOSIT HER NOTIFICATION OF INTENTION TO RATIFY THE FIFTH INTERNATIONAL TIN AGREEMENT WITH THE UNITED NATIONS ON 11 MARCH AND 29 JUNE, 1976, RESPECTIVELY, HAVE BEEN FOLLOWED BY THE MALAYSIAN GOVERNMENT WITH KEEN INTEREST. SUCH STEPS IN THE VIEW OF THE MALAYSIAN GOVERNMENT CANNOT BUT ONLY SIGNIFY THE SERIOUSNESS WHICH THE UNITED STATES ATTACHED TO HER PARTICIPATION IN THE FIFTH AGREEMENT.

B. IN FOLLOWING THESE EVENTS, MALAYSIA APPRECIATES THE U.S. LEGISLATIVE PROCEDURE WHEREIN A SENATE HEARING AND ENDORSEMENT WILL BE NECESSARY BEFORE PROVIDING THE U.S. ADMINISTRATION WITH THE ENABLING POWER TO UNDERTAKE THE ACTUAL RATIFICATION OF THE FIFTH AGREEMENT. WE ARE DESIROUS, FOR THE SAKE OF OUR MUTUAL BENEFIT AS MEMBERS OF THE FIFTH AGREEMENT, ESPECIALLY, AND OF THE INTERNATIONAL COMMUNITY AT LARGE, GENERALLY, OF LENDING SUPPORT, EVEN IF ONLY OF A MORAL NATURE, TO THE ADMINISTRATION IN ITS GENUINE EFFORTS TO MATERIALIZE THE UNITED STATES' FULL PARTICIPATION IN THE FIFTH AGREEMENT.

"C. MALAYSIA IS CONCERNED, HOWEVER, OVER REPORTS THAT HAVE BEEN RECEIVED THAT THE ADMINISTRATION'S CASE FOR RATIFICATION OF THE FIFTH AGREEMENT MIGHT BE MET DURING THE SENATE HEARING WITH TESTIMONIES THAT COULD CONSIDERABLY WEAKEN AND UNDERMINE THE ADMINISTRATION'S EFFORTS. AT THE SAME TIME MALAYSIA IS FULLY AWARE OF THE POSSIBILITY THAT SOME REPRESENTATIVES BASED AS THEY ARE ON OTHER DOMESTIC ISSUES PERTAINING TO ANY RELEVANT INDUSTRY IN THE U.S., MIGHT INADVERTENTLY INCLUDE DISTORTIONS OF FACTS PERTAINING TO THE PROPER WORKING OF THE FIFTH AGREEMENT. ANY ATTEMPT TO CORRECT ANY SUCH MISAPPREHENSION BY MALAYSIA SHOULD NOT BE CONSTRUED AS AN INTERVENTION IN THE INTERNAL AFFAIRS OF THE UNITED STATES BUT THAT SHE MERELY WISHES TO HELP CLARIFY CERTAIN ISSUES FOR THE SAKE OF THE AGREEMENT TO WHICH SHE BELIEVES THE U.S. ADMINISTRATION DOES ALSO ATTACH A HIGH DEGREE OF IMPORTANCE. IN THIS CONNECTION THE POSSIBILITY HAS NOT BEEN DISCOUNTED THAT THE SENATE HEARING MIGHT RECEIVE TESTIMONY TO THE EFFECT, AMONGST OTHER THINGS, THAT THE FIFTH AGREEMENT DOES NOT ADEQUATELY PROVIDE FOR THE PROTECTION OF CONSUMERS' INTERESTS.

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"D. IT IS APPARENT THAT THE PRESENT MARKET SITUATION MAY PROVIDE THE ANTI-RATIFICATION GROUPS IN THE U.S. WITH AN OPPORTUNITY TO UNJUSTIFIABLY AMPLIFY THIS APPARENT WEAKNESS IN THE AGREEMENT AS A PERMANENT FEATURE CONTRIBUTING TO THE INADEQUATE PROTECTION OF CONSUMERS' INTERESTS. HOWEVER, THE EVER-GROWING MEMBERSHIP OF TIN CONSUMING COUNTRIES IN THE TIN AGREEMENTS, SINCE ITS FIRST INCEPTION TWENTY YEARS AGO,

IS EVIDENCE THAT THIS COMMODITY ARRANGEMENT PROVIDES FOR THE PROTECTION OF BOTH PRODUCING AND CONSUMING COUNTRIES. THIS IS CLEARLY SPELT OUT AND IS TAKEN DUE COGNISANCE OF IN THE OBJECTIVES AS PROVIDED FOR UNDER ARTICLE 1 OF THE FIFTH AGREEMENT. SUCH OBJECTIVES AS WRITTEN IN THE PRESENT AGREEMENT AS TO ENSURE ADEQUATE SUPPLY AT PRICES FAIR TO CONSUMERS AND TO PROVIDE A LONG-TERM EQUILIBIUM BETWEEN PRODUCTION AND CONSUMPTION ARE SANCROSANT, AND DO REFLECT MOST ADEQUATELY THE INTENTION TO BALANCE THE INTERESTS BETWEEN THE CONSUMING AND PRODUCING MEMBERS OF THE AGREEMENT.

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"E. FURTHERMORE, IT WOULD BE A HARSH POSITION TO ADOPT IF THE PRESENT MARKET SITUATION WERE TO BE SINGLED OUT AS EVIDENCE OF THE AGREEMENT'S FAILURE TO PROTECT CONSUMERS' INTERESTS. A SITUATION SUCH AS THIS OCCURS ONLY VERY RARELY AND CONSTITUTES AN EXCEPTION RATHER THAN THE RULE IN THE HISTORY OF THE WORKING OF THE TIN AGREEMENTS. AS SUCH IT SHOULD NOT BE REGARDED AS THE FACTOR UPON WHICH THE AGREEMENT SHOULD BE CONDEMNED. THE STRENGTH OR CONTINUED SUCCESS OF AN ORGANIZATION, SUCH AS THE TIN AGREEMENT, LIES BASICALLY IN AN ADMISSION OF ITS IMPERFECTIONS AND THAT THE ORGANISATION AS A WHOLE SHOULD SERIOUSLY ANALYSE THE PROBLEM AND MEMBERSHIP JOINTLY TRY TO FIND A SOLUTION TO IT. IN THIS CONNECTION MALAYSIA IS OF THE VIEW THAT ARTICLES 21 AND 22 OF THE AGREEMENT NOW ADEQUATELY PROVIDE FOR THE ENLARGEMENT

OF THE BUFFER STOCK TO 40,000 TONNES, TO BE FINANCED EQUALLY BY THE PRODUCING AND CONSUMING MEMBER COUNTRIES. HOWEVER, THE ACHIEVEMENT OF THIS IDEAL SIZE OF THE BUFFER STOCK STILL LEAVES A LOT TO BE DESIRED BECAUSE OF THE LOOK MEMBER COUNTRIES IN THEIR COMMITMENT TO THE ADDITIONAL CONTRIBUTION TO THE BUFFER STOCK THAT IS PROVIDED IN THE PRESENT AGREEMENT. UNLESS A REALISTIC MEASURE OF JOINT AND EQUAL RESPONSIBILITY BETWEEN THE PRODUCING AND CONSUMING MEMBERS TOWARDS THE FINANCING OF THE BUFFER STOCK MATERIALISES THIS SITUATION WILL REMAIN UNCORRECTED.

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IT WOULD THEREFORE BE MOST UNFORTUNATE IF THE AGREEMENT NOW STANDS ACCUSED FOR FAILING TO CATER ADEQUATELY FOR CONSUMERS' INTERESTS WHEN IN FACT ALL CONSUMING MEMBER COUNTRIES HAVE AVAILABLE TO THEM THIS REMEDY. FURTHERMORE IT SHOULD BE POINTED OUT THAT NOTWITHSTANDING THE EXISTING SITUATION OF THE IMBALANCE OF ACTUAL CONTRIBUTION BETWEEN PRODUCING AND CONSUMING MEMBER COUNTRIES, THE LATTER HAVE THE SAME SAY AS THEIR PRODUCER COUNTERPARTS IN ALL MATTERS UNDER THE AGREEMENT.

"F. IT IS ALSO PERTINENT TO EXPLAIN HEREIN THAT IT WAS THE PRODUCING MEMBER COUNTRIES, WHO IRONICALLY HAD THE CONSUMERS' INTERESTS AT HEART, DURING THE RECENT FIRST SESSION OF THE INTERNATIONAL TIN COUNCIL UNDER THE FIFTH AGREEMENT, HELD DURING THE FIRST WEEK OF JULY IN LONDON. IT WILL BE RECALLED THAT THIS WAS ACHIEVED THROUGH THE WILLINGNESS OF THE PRODUCING COUNTRIES, AS THE MAIN CONTRIBUTORS AND OWNERS OF THE BUFFER STOCK UNDER THE FOURTH AGREEMENT, TO TRANSFER THE REMAINING METAL TO THE FIFTH BUFFER STOCK. IF THE PRODUCERS HAD DONE OTHERWISE THE CONSEQUENCES WOULD HAVE BEEN MORE DISASTROUS IN TERMS OF PRICE INCREASES BECAUSE OF THE LACK OF METAL HOLDING IN THE BUFFER STOCK. ADMITTEDLY, DUE TO THE EXTREME MARKET PRESSURE THE AMOUNT AVAILABLE FOR TRANSFER WAS SMALL BUT IN OUR VIEW IT WAS MORE THAN A SYMBOLIC GESTURE ON THE PART OF THE PRODUCING COUNTRIES.

"G. THE ANTI-RATIFICATION GROUPS IN THE U.S. MIGHT ALSO SEIZE ON THE ARGUMENT THAT PRODUCERS IN THE AGREEMENT ARE NOT IN FAVOUR OF CONTRIBUTION TO THE BUFFER STOCK IN TIN METAL. IT WILL BE RECALLED THAT THE CONSUMING MEMBER COUNTRIES DID SUBMIT A PROPOSAL AT THE JULY SESSION OF THE ITC TO THE EFFECT THAT PRODUCERS COMMIT THEIR INITIAL CONTRIBUTION TO THE BUFFER STOCK, IF NOT IN FULL AT LEAST PARTLY, IN METAL. HOWEVER, THE PROPOSAL APPEARS TO PLACE MORE RESPONSIBILITY ON THE PRODUCERS TO MAINTAIN PRICE STABILITY WHEREAS THE AGREEMENT AS A WHOLE PLACES THIS RESPONSIBILITY ON THE COUNCIL. IN ADDITION THE PROPOSAL DOES NOT

GIVE DUE CONSIDERATION TO THE PHYSICAL INABILITY OF MOST PRODUCING COUNTRIES TO CONTRIBUTE IN METAL. AS FOR MALAYSIA, APART FROM THE ADMINISTRATIVE DIFFICULTIES TO BE SURMOUNTED, LIMITED OFFICIAL USE

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THE REPEATED PERIODS OF EXPORT CONTROL, WHICH HAD CAUSES CONSIDERABLE HARDSHIP TO THE INDUSTRY THROUGH CUTBACKS IN PRODUCTION, HARDLY LEAVE ANY TIN AVAILABLE TO MAKE ITS CONTRIBUTION IN METAL FEASIBLE. UNDER THE CIRCUMSTANCES IF THE COUNCIL HAD DECIDED THAT SOME OR ALL OF THE INITIAL CONTRIBUTION BE MADE IN METAL, IT WOULD HAVE MEANT THAT THE METAL WOULD HAVE TO BE MADE AVAILABLE EITHER THROUGH PURCHASES FROM THE OPEN MARKET OR FROM MINE-HEAD STOCKS OR PIPE-LINE PRODUCTION. IN ALL CASES, IT WOULD HAVE THE EFFECT OF CAUSING ADDITIONAL PRESSURE TO BUILD UP IN THE MARKET CAUSING FURTHER RISES IN THE MARKET PRICE. IT WAS CONCERN FOR THE CONSUMERS' INTERESTS AND ABOVE ALL FOR THE AGREEMENT, THEREFORE, THAT THE PRODUCING MEMBER COUNTRIES DID NOT SUPPORT THE CONSUMERS' PROPOSAL.

"H. IN MAKING THIS REPRESENTATION AND ATTEMPTING TO CLARIFY THE ABOVE ISSUES, IT IS THE FERVENT HOPE OF THE MALAYSIAN GOVERNMENT THAT THE EXPLANATIONS GIVEN HEREIN COULD LEND SOME MEASURE OF SUPPORT TO THE UNITED STATES GOVERNMENT IN HER EFFORT TO WIN SENATE APPROVAL FOR THE RATIFICATION OF THE FIFTH INTERNATIONAL TIN AGREEMENT."

3. DIRECTOR GENERAL CALLED SPECIAL ATTENTION TO PARA F OF AIDE MEMOIRE AND ELABORATED ON IT BY POINTING OUT THAT AT END OF FOURTH TIN AGREEMENT, UNUSUAL STEP OF TRANSFERRING EXISTING BUFFER STOCK ON HAND OF 2820 TONS RATHER THAN DISPERSING IT REPRESENTED CONCRETE EXAMPLE OF PRODUCING COUNTRIES' GOOD FAITH IN ATTEMPTING TO TAKE NECESSARY STEPS TO PROTECT CEILING PRICES.
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